

AMENDED IN ASSEMBLY JUNE 30, 2004

AMENDED IN ASSEMBLY MAY 17, 2004

AMENDED IN SENATE MAY 12, 2003

AMENDED IN SENATE APRIL 28, 2003

## SENATE BILL

**No. 898**

### Introduced by Senator Burton

February 21, 2003

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An act to amend Sections 35277 and 35278 of the Education Code, relating to school districts.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 898, as amended, Burton. Schoolsite replacement housing.

Existing law authorizes a local governing agency, as defined, to acquire *real* property to replace existing dwelling units ~~displaced by school construction~~ *demolished in connection with a new schoolsite, as defined*, if certain conditions are met and requires that displaced persons be given a right of first refusal to purchase or rent the replacement dwelling units.

This bill would also ~~permit an elementary~~ *authorize a* school district, community college district, or an eligible nonprofit corporation, as defined by the bill, to ~~replace existing dwelling units displaced by school construction~~ *acquire real property for those purposes under the same conditions and requirements as a local governing agency and would require that the acquisition be from a willing seller*.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 35277 of the Education Code is amended to read:

35277. For purposes of this article the following terms have the following meanings:

(a) “Affordable housing cost” has the same meaning as set forth in Chapter 2 (commencing with Section 50050) of Part 1 of Division 31 of the Health and Safety Code as applied to persons and families of low or moderate income.

(b) “Affordable rent” has the same meaning as set forth in Chapter 2 (commencing with Section 50050) of Part 1 of Division 31 of the Health and Safety Code as applied to persons and families of low or moderate income.

(c) “Extremely low income households” has the same meaning as set forth in Section 50106 of the Health and Safety Code.

(d) “Local governing agency” means a city in which a new schoolsite is located, or if a new schoolsite is located in an unincorporated area, the county in which the new schoolsite is located.

(e) “Eligible nonprofit corporation” means a nonprofit public benefit corporation, nonprofit mutual benefit corporation, or a limited liability company in which the managing member is a nonprofit public benefit corporation or a nonprofit mutual benefit corporation.

(f) “New schoolsite” means real property acquired by a school district on and after January 1, 2003, for construction of a new schoolsite or for expansion of an existing schoolsite.

(g) “New schoolsite replacement housing” means housing to replace the residential dwelling units demolished or to be demolished in connection with a new schoolsite.

(h) “Persons and families of low income” has the same meaning as set forth in Section 50093 of the Health and Safety Code.

(i) “Persons and families of low or moderate income” has the same meaning as set forth in Section 50093 of the Health and Safety Code.

(j) “Very low income households” has the same meaning as set forth in Section 50105 of the Health and Safety Code.

(k) “Vicinity of a new schoolsite” means the area within the census tract in which a new schoolsite is located and the areas within the immediately adjacent census tracts.

~~SEC. 2. Section 35278 of the Education Code is amended to~~

SEC. 2. *Section 35278 of the Education Code is amended to read:*

35278. (a) If a school district *or community college district* has acquired a new schoolsite containing residential dwelling units, the local governing agency, *school district, community college district, or eligible nonprofit corporation* may, consistent with this article, acquire real property for the purpose of new schoolsite replacement housing and utilize or convey the property according to this article, if all of the following conditions are met:

(1) ~~The local governing agency~~ *school district or community college district* has determined that an extreme shortage of affordable housing exists in the vicinity of the new schoolsite.

(2) The real property to be used for replacement housing is acquired by the local governing agency, *school district, or community college district, or an eligible nonprofit corporation* in the vicinity of a new schoolsite, or in an area designated in the local governing agency’s replacement housing plan adopted pursuant to paragraph (1) of subdivision (e), within two years of the school district’s acquisition of a possessory right to the new schoolsite.

(3) The combined area of the real property to be used for replacement housing acquired by the local governing agency, *school district, community college district, or an eligible nonprofit corporation* pursuant to this article does not include any portion of the new schoolsite and does not, in acreage, exceed 150 percent of the area acquired by the school district for the new schoolsite.

(b) (1) A local governing agency may rehabilitate, develop, or construct residential facilities on the property for the purpose of providing new schoolsite replacement housing as set forth in this article.

(2) *A school district, community college district, or eligible nonprofit corporation may acquire real property for the purpose of new schoolsite replacement housing only from a willing seller.*

(c) Notwithstanding Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code or any other provision of law, a local governing agency, *school district, community college district, or eligible*

1 *nonprofit corporation* that has acquired real property for new  
2 schoolsite replacement housing pursuant to this article may  
3 convey the property to an affiliated public agency for the purpose  
4 of providing new schoolsite replacement housing. An affiliated  
5 public agency that has acquired real property pursuant to this  
6 section may rehabilitate, develop, or construct residential facilities  
7 on the property for the purpose of providing new schoolsite  
8 replacement housing in compliance with this article.

9 (d) Notwithstanding Article 8 (commencing with Section  
10 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the  
11 Government Code or any other provision of law, a local governing  
12 agency, *school district, community college district, eligible*  
13 *nonprofit corporation*, or an affiliated public agency, that has  
14 acquired real property for new schoolsite replacement housing  
15 pursuant to this article, may sell, lease for no more than 99 years,  
16 jointly develop, exchange, subdivide, transfer, assign, pledge,  
17 encumber by mortgage, deed of trust, or otherwise, or otherwise  
18 dispose of the real property or any interest in that property, or any  
19 portion thereof, for the purpose of providing new schoolsite  
20 replacement housing through the rehabilitation, development, or  
21 construction of residential facilities or combined residential and  
22 commercial facilities on that property.

23 (e) (1) Any disposition of real property, pursuant to  
24 subdivision (d), acquired for new schoolsite replacement housing  
25 pursuant to this article shall be in furtherance of a replacement  
26 housing plan. The local governing agency, *school district, or*  
27 *community college district* shall adopt a replacement housing plan  
28 for disposition of real property pursuant to this article, which shall  
29 meet all of the following requirements:

30 (A) The replacement housing plan shall include all of the  
31 following:

32 (i) A statement of the general location of housing to be  
33 developed pursuant to this section.

34 (ii) A description of the means of financing the development.

35 (iii) A finding that the actions to be taken pursuant to the plan  
36 do not require approval of the voters pursuant to Article XXXIV  
37 of the California Constitution, or that the approval has been or will  
38 be obtained.

39 (iv) A specification of the number of dwelling units housing  
40 persons and families of low income and persons and families of

1 moderate income, respectively, that are planned for construction  
2 or rehabilitation.

3 (v) Provisions to ensure that persons displaced by the  
4 acquisition of a new schoolsite, and the acquisition of the new  
5 schoolsite replacement housing property pursuant to this article,  
6 shall have a right of first refusal for the purchase or rental of  
7 dwelling units developed in the replacement housing.

8 (vi) A description of any facilities for commercial use to be  
9 constructed in combination with the replacement housing.

10 (B) The number of dwelling units to be developed on the  
11 combined area of real property acquired pursuant to this article  
12 will be equal to a prescribed percentage, as determined by the local  
13 governing agency, *school district, or community college district*,  
14 but in no event less than the sum of both of the following:

15 (i) Seventy-five percent of the total number of dwelling units  
16 demolished or to be demolished in connection with construction  
17 or expansion of school facilities on the new schoolsite.

18 (ii) The total number of dwelling units on the new schoolsite  
19 replacement housing property to be acquired pursuant to this  
20 article.

21 (C) Unless the local governing agency, *school district, or*  
22 *community college district* prescribes a greater number pursuant  
23 to subparagraph (D), the number of dwelling units developed on  
24 the property acquired for new schoolsite replacement housing  
25 pursuant to this article that are available at affordable housing costs  
26 or affordable rents shall be greater than, or equal to, the lesser of  
27 either of the following:

28 (i) A number equal to 50 percent of the dwelling units  
29 developed on the property acquired for new schoolsite  
30 replacement housing pursuant to this article.

31 (ii) The number of households of persons and families of low,  
32 or moderate, income displaced by the acquisition of the new  
33 schoolsite property and by the acquisition of the property for new  
34 schoolsite replacement housing pursuant to this article.

35 (D) A local governing agency, *school district, or community*  
36 *college district* may require that all or any portion of the dwelling  
37 units, in addition to those required under subparagraph (C), be  
38 available at affordable housing cost or affordable rent to persons  
39 and families in lower income categories, including, persons and  
40 families of low income, very low income, or extremely low;

1 income. This section does not prohibit a local governing agency,  
2 *school district, or community college district* from participating  
3 financially or otherwise to enable any housing developed pursuant  
4 to this article to serve households of lower income if the need for  
5 that housing is identified in, and consistent with, the replacement  
6 housing plan.

7 (2) For a reasonable period of time prior to adopting the  
8 replacement housing plan, the agency, *school district, or*  
9 *community college district* shall make available a draft of the  
10 proposed plan for review and comment by public agencies and the  
11 general public.

12 read:

13 ~~35278. (a) If an elementary school district or community~~  
14 ~~college district has acquired a new schoolsite containing~~  
15 ~~residential dwelling units, the local governing agency, elementary~~  
16 ~~school district, community college district, or an eligible nonprofit~~  
17 ~~corporation may, consistent with this article, acquire real property~~  
18 ~~for the purpose of new schoolsite replacement housing and utilize~~  
19 ~~or convey the property according to this article, if all of the~~  
20 ~~following conditions are met:~~

21 ~~(1) The elementary school district or community college~~  
22 ~~district has determined that an extreme shortage of affordable~~  
23 ~~housing exists in the vicinity of the new schoolsite.~~

24 ~~(2) The real property to be used for replacement housing is~~  
25 ~~acquired by the local governing agency, elementary school~~  
26 ~~district, community college district, or an eligible nonprofit~~  
27 ~~corporation in the vicinity of a new schoolsite, or in an area~~  
28 ~~designated in the local governing agency's replacement housing~~  
29 ~~plan adopted pursuant to paragraph (1) of subdivision (c), within~~  
30 ~~two years of the school district's acquisition of a possessory right~~  
31 ~~to the new schoolsite.~~

32 ~~(3) The combined area of the real property to be used for~~  
33 ~~replacement housing acquired by the local governing agency,~~  
34 ~~elementary school district, community college district, or an~~  
35 ~~eligible nonprofit corporation pursuant to this article does not~~  
36 ~~include any portion of the new schoolsite and does not, in acreage,~~  
37 ~~exceed 150 percent of the area acquired by the school district for~~  
38 ~~the new schoolsite.~~

39 ~~(b) A local governing agency, elementary school district,~~  
40 ~~community college district, or an eligible nonprofit corporation~~

1 may rehabilitate, develop, or construct residential facilities on the  
2 property for the purpose of providing new schoolsite replacement  
3 housing as set forth in this article.

4 (e) ~~Notwithstanding Article 8 (commencing with Section~~  
5 ~~54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the~~  
6 ~~Government Code or any other provision of law, a local governing~~  
7 ~~agency, elementary school district, community college, or an~~  
8 ~~eligible nonprofit corporation that has acquired real property for~~  
9 ~~new schoolsite replacement housing pursuant to this article may~~  
10 ~~convey the property to an affiliated public agency for the purpose~~  
11 ~~of providing new schoolsite replacement housing. An affiliated~~  
12 ~~public agency that has acquired real property pursuant to this~~  
13 ~~section may rehabilitate, develop, or construct residential facilities~~  
14 ~~on the property for the purpose of providing new schoolsite~~  
15 ~~replacement housing in compliance with this article.~~

16 (d) ~~Notwithstanding Article 8 (commencing with Section~~  
17 ~~54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the~~  
18 ~~Government Code or any other provision of law, a local governing~~  
19 ~~agency, elementary school district, community college district,~~  
20 ~~eligible nonprofit corporation, or an affiliated public agency, that~~  
21 ~~has acquired real property for new schoolsite replacement housing~~  
22 ~~pursuant to this article, may sell, lease for no more than 99 years,~~  
23 ~~jointly develop, exchange, subdivide, transfer, assign, pledge,~~  
24 ~~encumber by mortgage, deed of trust, or otherwise, or otherwise~~  
25 ~~dispose of the real property or any interest in that property, or any~~  
26 ~~portion thereof, for the purpose of providing new schoolsite~~  
27 ~~replacement housing through the rehabilitation, development, or~~  
28 ~~construction of residential facilities or combined residential and~~  
29 ~~commercial facilities on that property.~~

30 (e) (1) ~~Any disposition of real property, pursuant to~~  
31 ~~subdivision (d), acquired for new schoolsite replacement housing~~  
32 ~~pursuant to this article shall be in furtherance of a replacement~~  
33 ~~housing plan. The local governing agency, elementary school~~  
34 ~~district, or community college district shall adopt a replacement~~  
35 ~~housing plan for disposition of real property pursuant to this~~  
36 ~~article, which shall meet all of the following requirements:~~

37 (A) ~~The replacement housing plan shall include all of the~~  
38 ~~following:~~

39 (i) ~~A statement of the general location of housing to be~~  
40 ~~developed pursuant to this section.~~



~~(ii) A description of the means of financing the development.~~  
~~(iii) A finding that the actions to be taken pursuant to the plan do not require approval of the voters pursuant to Article XXXIV of the California Constitution, or that the approval has been or will be obtained.~~

~~(iv) A specification of the number of dwelling units housing persons and families of low income and persons and families of moderate income, respectively, that are planned for construction or rehabilitation.~~

~~(v) Provisions to ensure that persons displaced by the acquisition of a new schoolsite, and the acquisition of the new schoolsite replacement housing property pursuant to this article, shall have a right of first refusal for the purchase or rental of dwelling units developed in the replacement housing.~~

~~(vi) A description of any facilities for commercial use to be constructed in combination with the replacement housing.~~

~~(B) The number of dwelling units to be developed on the combined area of real property acquired pursuant to this article will be equal to a prescribed percentage, as determined by the local governing agency, elementary school district, or community college district, but in no event less than the sum of both of the following:~~

~~(i) Seventy five percent of the total number of dwelling units demolished or to be demolished in connection with construction or expansion of school facilities on the new schoolsite.~~

~~(ii) The total number of dwelling units on the new schoolsite replacement housing property to be acquired pursuant to this article.~~

~~(C) Unless the local governing agency elementary school district, or community college district prescribes a greater number pursuant to subparagraph (D), the number of dwelling units developed on the property acquired for new schoolsite replacement housing pursuant to this article that are available at affordable housing costs or affordable rents shall be greater than, or equal to, the lesser of either of the following:~~

~~(i) A number equal to 50 percent of the dwelling units developed on the property acquired for new schoolsite replacement housing pursuant to this article.~~

~~(ii) The number of households of persons and families of low, or moderate, income displaced by the acquisition of the new~~



1 ~~schoolsite property and by the acquisition of the property for new~~  
2 ~~schoolsite replacement housing pursuant to this article.~~

3 ~~(D) A local governing agency, elementary school district, or~~  
4 ~~community college district may require that all or any portion of~~  
5 ~~the dwelling units, in addition to those required under~~  
6 ~~subparagraph (C), be available at affordable housing cost or~~  
7 ~~affordable rent to persons and families in lower income categories,~~  
8 ~~including, persons and families of low income, very low income,~~  
9 ~~or extremely low, income. This section does not prohibit a local~~  
10 ~~governing agency, elementary school district, or community~~  
11 ~~college district from participating financially or otherwise to~~  
12 ~~enable any housing developed pursuant to this article to serve~~  
13 ~~households of lower income if the need for that housing is~~  
14 ~~identified in, and consistent with, the replacement housing plan.~~

15 ~~(2) For a reasonable period of time prior to adopting the~~  
16 ~~replacement housing plan, the agency, elementary school district,~~  
17 ~~or community college district shall make available a draft of the~~  
18 ~~proposed plan for review and comment by public agencies and the~~  
19 ~~general public.~~

